



HEALTH DEPARTMENT

May 4, 2006

Mr. Don Johnson
California Environmental Protection Agency
1001 I Street
Sacramento, CA 95814

Subject: Response to the August 2005 CUPA Evaluation Summary of Findings dated April 14, 2006

San Mateo County Environmental Health (Environmental Health) received the above referenced Summary of Findings on April 19, 2006. As requested, I have prepared a status report in response to the deficiencies noted by the CUPA Evaluation Team during the evaluation conducted August 30-31, 2005. The following information documents the eight deficiencies referenced in the Summary of Findings and corresponding corrective actions. These are as follows:

1. **Deficiency:** The CUPA's 1998 Area Plan is outdated. The CUPA is currently amending their Area Plan. The OES evaluator conducted a review of the incomplete draft Area Plan and provided comments.

Corrective Action: Environmental Health submitted a draft Area Plan revision dated February 2006 to OES in March 2006. Environmental Health subsequently submitted the final version of the Area Plan dated May 2006 to OES in May 2006. In addition, the Hazardous Materials Business Plan Program Specialist will be attending the Area Plan Training Workshop sponsored by the OES Hazmat Unit, LEPC II on May 30, 2006 to obtain additional information useful for future Area Plan revisions.

2. **Deficiency:** The CUPA Summary Report 3 for 2001-02, 02-03 and 03-04 documents that the CUPA only inspected 8 out of 30 stationary sources (27% of their inspection frequency). The CUPA did acknowledge that when other Unified Program element inspections (i.e., HMBP, HWG, UST) are conducted, the inspector checks to see if the stationary source has submitted a CalARP registration. All the stationary sources received a letter from the CUPA informing them that if they currently have a regulated substance in a process above the threshold quantity, they are required to develop an RMP. The RMP submission period for all the stationary sources expired in August 2005. The CUPA sent a reminder letter in August 2005 to the stationary sources and required action within 15 days. A more in-depth inspection of all stationary sources will begin when the RMPs are received from the stationary sources.

PUBLIC HEALTH AND ENVIRONMENTAL PROTECTION DIVISION

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Corrective Action: Environmental Health is currently implementing and enforcing CalARP law and regulations pertaining to stationary sources in San Mateo County. Environmental Health inspectors have attended hazard review and process hazard analysis meetings with representatives of stationary sources as they develop and implement their respective RMPs. Approximately one-third of the stationary sources submitted RMPs that are now undergoing a completeness review. The remaining stationary sources have either requested an extension to the RMP submittal deadline or have not responded to the request for an RMP. Environmental Health granted extensions to stationary sources with a reasonable request and is pursuing enforcement actions with stationary sources that have failed to respond to or comply with the previous request for an RMP. In addition, several CalARP policies are being developed to provide local guidance for the County's CalARP Program.

In-depth CalARP Program inspections and audits will be performed at those stationary sources that have submitted RMPs and following the completeness review. I anticipate that these inspections will be conducted this calendar year and at least once every three years thereafter. The CalARP Program audits are periodically required and will be conducted in conjunction with the CalARP Program inspection or separately as needed.

3. **Deficiency:** The CUPA does not have a procedure necessary to implement a dispute resolution process when disputes arise between the owner or operator of a stationary source and the CUPA.

Corrective Action: Environmental Health developed and implemented a dispute resolution policy. This policy was finalized in March 2006 and a copy was provided to OES at that time.

4. **Deficiency:** The CUPA Self-Audit shows that they do not have procedures instituted that allow for appeals of a dispute resolution policy.

Corrective Action: Environmental Health developed and implemented a dispute resolution policy in March 2006. This policy includes provisions for appealing the final decision by the CUPA if the stationary source is not satisfied with the decision or proposed alternate solution.

5. **Deficiency:** The CUPA is not consistently providing a Notice to Comply/Summary of Violation at the conclusion of the inspection for observed violations. The CUPA has a Notice to Comply/Summary of Violation form; however, staff is not always using the form.

Corrective Action: The Hazardous Waste Generator Program Specialist refreshed staff on hazardous waste generator inspection procedures for issuing a Notice to Comply and/or a Summary of Violation at the conclusion of each inspection if inspectors observe any Minor, Class II and/or Class I violations.

6. **Deficiency:** The CUPA is not always citing violations in a manner consistent with the definitions of Minor, Class II, or Class I as provided in statute and regulation. The pre-printed form used to identify the classification of a violation was not consistent with the definitions found in statute and regulation. Inaccurate Annual Enforcement Summary Report data has occurred due to the pre-printed forms containing inaccurate classifications. The CUPA has modified the pre-printed forms to address the proper classification issue; however, it was discovered that the data management system that produces the summary reports was not modified to reflect the new changes.

Corrective Action: Environmental Health modified the data management system to accurately report classification of violations.

7. **Deficiency:** During the file review, it was observed that some businesses with noted hazardous waste violations were lacking follow up (e.g., return to compliance certification, letter identifying completed corrective measures....

Corrective Action: Environmental Health required that the document formerly known as the Hazardous Waste Generator Notice of Violation be signed and dated by the owner and/or operator and returned to this agency within 30 days. The former Notice of Violation was replaced with the Notice to Comply for Minor violations and the Summary of Violation for Class II and Class I violations. Inspectors will conduct a follow up site visit, inspection or contact the business by phone if the required documentation indicating a return to compliance is not submitted.

8. **Deficiency:** The CUPA is not ensuring that PBR businesses are submitting their annual PBR notifications.

Corrective Action: Environmental Health will annually provide a PBR notification form to all facilities required to submit an annual PBR notification. If the subject facility does not submit an annual PBR notification, inspectors will follow up with the facility to ensure that the facility submits the required notification.

The above corrective action responses should address the eight deficiencies identified by the CUPA Evaluation Team. Please contact me to discuss this matter further or if you need additional information. I can be reached at wlent@co.sanmateo.ca.us or at (650) 363-4366.

Sincerely,

A handwritten signature in black ink, appearing to read 'William Lent', followed by a long horizontal line extending to the right.

William Lent
Hazardous Materials Program Manager